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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,173	04/30/2001	Carmelo Giuffre	KARAGHIOSOFF	3489

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EXAMINER

MUSSER, BARBARA J

ART UNIT

PAPER NUMBER

1733

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Please find below and/or attached an Office communication concerning this application or proceeding.

YB

Office Action Summary	Application N . 09/763,173	Applicant(s) GIUFFRE, CARMELO	
	Examiner Barbara J. Musser	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1</u> | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 10, 210, and 310. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "or similar" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or similar"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claim 3, it is unclear how the mutual orientation can be chosen to vary at will since the word "chosen" implies choosing a specific orientation.

Regarding claim 4, it is unclear whether the mark formed is required to be a wedging mark or not.

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Regarding claim 6, it is unclear what is meant by the mutual compression exerted by the dripping units and the pipe as the compression is exerted on the dripping units and the pipe by other devices which press them together. Pressure on two items is not caused by the two items, but by something forcing them together.

Regarding claim 8, it is unclear what is meant by the force and conditions being limited. It is unclear how they are limited and to what respect, i.e. limited to less than those prior to joining, the same as those, or greater.

Regarding claim 9, it is unclear what is meant by the claim as the examiner cannot find an explanation of the claim language in the specification. Applicant is asked to point to supporting and explaining language in the specification. The phrase "the thrust limitation" has no antecedent basis.

Regarding claim 10, it is unclear what is meant by the claim as the examiner cannot find an explanation of the claim language in the specification. Applicant is asked to point to supporting and explaining language in the specification. The phrase "the frictional junction force" has no antecedent basis. It is unclear what is meant by the dripper units being joined to the dragging means by the friction means as the dripper units are only joined to the wall of the extruded tube.

Claim 11 recites the limitation "the compression pressure" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is unclear what is meant by the compression pressure acting outside the pipe as the pressure appears to act on the outside of the pipe.

Claims 12, 13, and 14 recite the limitation "the external pressure" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the pressure" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is suggested this claim is intended to depend from claim 11.

Regarding claim 16, it is unclear what the slide abutments are stationary with respect to.

Claim 19 recites the limitation "the driving speed of the external pressure means" and "the internal abutments" in lines 2-4. There is insufficient antecedent basis for this limitation in the claim. It is suggested this claim is intended to depend from claim 11.

Regarding claim 21, it is unclear whether the initial contact area between the dripper units and the pipe is intended to be in the conically narrowed length of pipe of claim 1 or in a different conically narrowed length of pipe.

Regarding claim 24, it is unclear whether this claim is intended to have all the limitations of claim 1 or not. It is suggested the claim be re-written in independent form.

Regarding claim 26, it is unclear what "it" in line 2 refers to since the "comprises" seems to suggest the apparatus only comprises the slide surface and not additionally comprises the slide surface. It would appear the guiding means are the conveying/pushing/dragging means of claim 24.

Regarding claim 27, it is unclear what "it" in line 2 refers to since the "comprises" seems to suggest the apparatus only comprises the means for guiding and not

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additionally comprises the means for guiding. It would appear the guiding means are the conveying/ pushing/dragging means of claim 24.

Claim 28 recites the limitation "the guide means" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is suggested that this claim is intended to be dependent from claim 27.

Claim 29 recites the limitation "the means for guiding" in line 6. There is insufficient antecedent basis for this limitation in the claim. It is suggested that this claim is intended to be dependent from claim 27.

Regarding claim 30, it is unclear what is meant by "means for disengaging" and "when a predetermined thrust is attained" as the examiner cannot find an explanation of the claim language in the specification. Applicant is asked to point to supporting and explaining language in the specification. It appears that this simply means that the pushing/dragging means ends at a given spot, and such is not a separate means for disengaging.

Regarding claim 31, it is unclear what is meant by the claim as the examiner cannot find an explanation of the claim language in the specification. Applicant is asked to point to supporting and explaining language in the specification. It is suggested that "thanks to" be changed to —due to— as "thanks to" appears to be slang.

Claim 33 recites the limitation "the pressure means" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 34 and 35 recite the limitation "the presser means" in line 3. There is insufficient antecedent basis for this limitation in the claim.

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Regarding claim 37, it is unclear what angle between the pipe wall and the dripping element path is being claimed. It is suggested that the word "possibly" be removed from the claim.

Regarding claim 40, it is unclear what is meant by "continuous of reciprocating type". It is suggested "of" be changed to "or".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 24-26, 29, 32-34, 36, 37, 39, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Gorney et al. (U.S. Patent 5,271,786).

Gorney et al. discloses an apparatus for forming a drip irrigation pipe having an extruder(10), a calibrator(28), dripper feeding means(20), and conveying means for the dripper units(16). The apparatus is capable of conveying the dripper units at a faster speed than the pipe wall.

Regarding claim 25, the dripper units are driven such that the dripper units impact the inside of the pipe.(Figure 3) This would cause a mark.

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Regarding claim 26, Gorney et al. discloses a stationary slide for the dripper units.(Figure 1)

Regarding claim 29, the conveying continues after the dripper units contact the pipe wall.(Figure 1)

Regarding claims 32-34, Gorney et al. discloses external pressing means(24, 30) which are passively driven.(Figure 1) The distance between the pressing means(30) and the pipe wall is adjustable(32).(Col. 7, ll. 39-40) The rollers can be replaced by a flat pressure surface.(Col. 7, ll. 51-52)

Regarding claim 36, the pipe wall and the dripper units converge at their first contact point.(Figure 3)

Regarding claim 37, the dripper path and the pipe wall are parallel in the compression area after the first contact.(Figure 2A)

Regarding claim 39, the dripper unit and the pipe wall first contact each other while the pipe wall is decreasing in diameter.(Figure 3)

Regarding claim 40, the pushing mechanism(20) reciprocates.

6. Claims 24, 28, 29, 36, 37, 39, and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Bulushek(U.S. Patent 6,179,949).

Bulushek discloses an apparatus for forming a drip irrigation pipe having an extruder(36), a calibrator(39), dripper feeding means(43), and conveying means for the dripper units(43). The apparatus is capable of conveying the dripper units at a faster speed than the pipe wall.

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Regarding claim 28, Bulushek discloses feeding means for the dripper units which are driven.(Col. 5, ll. 9-17) This feeding means is capable of being driven at a speeder greater than the extrusion speed of the pipe.

Regarding claim 29, the conveying continues after the dripper units contact the pipe wall.(Figure 3B)

Regarding claim 36, the pipe wall and the dripper units converge at their first contact point.(Figure 3B)

Regarding claim 37, the dripper path and the pipe wall are parallel in the compression area after the first contact.(Figure 3B)

Regarding claim 39, the dripper unit and the pipe wall first contact each other while the pipe wall is decreasing in diameter.(Figure 3B)

Regarding claim 40, the conveying means is a conveyor belt and such belts operate continuously.(Figure 3B)

7. Claims 24 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Lambert et al.(U.S Patent 6,280,554).

Lambert et al. discloses an apparatus for forming a drip irrigation pipe having an extruder(10), a calibrator(15), dripper feeding means(7), and conveying means for the dripper units(16). The apparatus is capable of conveying the dripper units at a faster speed than the pipe wall.

Regarding claim 35, Lambert et al. discloses a driven pressing means which can exert a pushing/dragging force on the pipe wall.(22)

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This rejection can be overcome by the filing of a certified translation of the priority document.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gorney et al.

Gorney et al. does not state that the conveying means for the dripper units move passively, but rather uses a stationary slide.(Figure 2A) However, the reference does disclose the external press means can be either passive rollers or stationary means.(Col. 7, ll. 51-52) It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the stationary conveying means of Gorney et al. with passive rollers since Gorney et al. discloses these are well-known alternatives in the art(Col. 7, ll. 51-52) and since the use of rollers would reduce friction.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cohen(U.S. Patent 6,461,468) is cited as a possible interference with applicant's claims, specifically see claim 2 of Cohen.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Barbara J. Musser** whose telephone number is (703)-305-1352. The examiner can normally be reached on Monday-Thursday; alternate Fridays.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



BJM

October 31, 2002


Michael W. Ball
Supervisory Patent Examiner
Technology Center 1700